

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Lamalsikou Lowe,

Plaintiff

v.

CoreCivic Board of Directors,

Defendant

Case No. 2:24-cv-01547-JAD-EJY

**Order Dismissing
and Closing Case**

Pro se litigant Lamalsikou Lowe initiated what appeared to be a conditions-of-confinement civil-rights case on a document purporting to be a petition for writ of habeas corpus. On August 27, 2024, this court ordered Lowe to clarify what type of case he was trying to initiate and pay the \$405 filing fee for a civil action, the \$5 filing fee for a habeas case, or a complete application to proceed *in forma pauperis* by September 26, 2024.¹ That deadline expired, and Lowe neither did any of these things nor seek to extend the deadline to do so.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.² A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules.³ In determining whether to dismiss an action on this ground, the court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its

¹ ECF No. 5.

² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

³ *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
2 cases on their merits; and (5) the availability of less drastic alternatives.⁴

3 The first two factors, the public's interest in expeditiously resolving this litigation and the
4 court's interest in managing its docket, weigh in favor of dismissal of Lowe's claims. The third
5 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption
6 of injury arises from the occurrence of unreasonable delay in prosecuting an action.⁵ The fourth
7 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
8 the factors favoring dismissal.

9 The fifth factor requires the court to consider whether less drastic alternatives can be used
10 to correct the party's failure that brought about the court's need to consider dismissal.⁶ Courts
11 “need not exhaust every sanction short of dismissal before finally dismissing a case, but must
12 explore possible and meaningful alternatives.”⁷ Because this court cannot operate without
13 collecting reasonable fees, and litigation cannot progress without a litigant's compliance with the
14 court's order, the only alternative is to enter a second order setting another deadline. But issuing
15 a second order will only delay the inevitable and further squander the court's finite resources.

18 ⁴ *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
19 *Malone*, 833 F.2d at 130).

20 ⁵ *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

21 ⁶ *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less
22 drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor);
23 *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the
persuasive force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic
alternatives prior to disobedience of the court's order as satisfying this element[.]” i.e., like the
“initial granting of leave to amend coupled with the warning of dismissal for failure to
comply[.]” have been “eroded” by *Yourish*).

⁷ *Henderson*, 779 F.2d at 1424.

1 Setting another deadline is not a meaningful alternative given these circumstances. So the fifth
2 factor favors dismissal.

3 Having thoroughly weighed these dismissal factors, I find that they weigh in favor of
4 dismissal. IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without
5 prejudice based on Lowe's failure to file a civil rights complaint or habeas petition, pay the filing
6 fee, or seek to proceed *in forma pauperis* in compliance with the court's order. The Clerk of
7 Court is directed to **ENTER JUDGMENT** accordingly and **CLOSE THIS CASE**. If
8 Lamalsikou Lowe wishes to pursue his claims, he must file a complaint or a habeas petition in a
9 new case, and he must pay the fee for that action or file a complete application to proceed *in*
10 *forma pauperis*.

11 Dated: October 7, 2024



U.S. District Judge Jennifer A. Dorsey